

# Order

Michigan Supreme Court  
Lansing, Michigan

May 12, 2010

Marilyn Kelly,  
Chief Justice

140841

Michael F. Cavanagh  
Elizabeth A. Weaver  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway,  
Justices

In re CW, BW, and DW, Minors.

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CW, BW, and DW,  
Appellees,

and

VALERIU MARTIN and KAREN MARTIN,  
Petitioners-Appellants,

v

DEPARTMENT OF HUMAN SERVICES,  
Respondent-Appellee.

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SC: 140841  
COA: 292866  
Genesee CC Family Division:  
09-016660-AM

On order of the Court, the application for leave to appeal the February 16, 2010 judgment of the Court of Appeals is considered. We DIRECT respondent Department of Human Services to answer the application for leave to appeal within 28 days after the date of this order. We further invite the children's lawyer-guardian ad litem, Terina M. Carte, to answer the application for leave to appeal within the same time period.

The application for leave to appeal remains pending.

CORRIGAN, J. (*concurring*).

I concur in this Court's order directing respondent Department of Human Services to answer the application for leave to appeal. I would further direct the Department of Human Services to include in its response answers to the following questions: (1) whether and under what circumstances a decision of the Michigan Children's Institute Superintendent may be deemed arbitrary and capricious because the Superintendent relied on evidence that he knew or should have known was substantially incomplete or inaccurate; (2) whether the Superintendent relied on such evidence here, particularly given that he relied heavily on opinions of Department of Human Services staff, some of

whom had adversarial interactions with the petitioners in the past, and given that the children's lawyer-guardian ad litem expressly favored adoption by the petitioners; (3) whether any evidence supported the Superintendent's conclusion that the petitioners' "ability to meet the developmental needs of these children was inadequate"; and (4) whether the Superintendent erred by failing to consider that the children's older sister is placed with the petitioners, see MCL 710.22(g)(x) and 42 USC 671(a)(31)(A), and if so, what effect such an error has on the validity of his decision.



d0511

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 12, 2010

A handwritten signature in cursive script that reads "Corbin R. Davis".

Clerk